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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/595,260	06/15/2000	Vasco Vollmer	1224	8984

7590 06/17/2004  
Striker Striker & Stenby  
103 East Neck Road  
Huntington, NY 11743

EXAMINER
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LAMARRE, GUY J

ART UNIT	PAPER NUMBER
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2133

DATE MAILED: 06/17/2004

8

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/595,260

Applicant(s)

VOLLMER ET AL.

Examiner

Guy J. Lamarre, P.E.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3, 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### FINAL OFFICE ACTION

- 0. This office action is in response to Applicants' **Amendment** of 29 March 2004.
- 0.1 **Claims 1-18** are cancelled, **Claims 19-31** are added. **Claims 19-31** remain pending.
- 0.2 The prior art rejections of record to **the Claims** are maintained in response to Applicants' **Amendment**.
- 0.3 The objections of record are withdrawn in response to Applicants' amendment.

### Response to Arguments

- 1.0 Applicants' arguments of 29 March 2004 have been fully considered, but they are not persuasive.

### REMARKS

- 1.1 In response to **Claim 19**, Applicants, on page 19 last para., allege that the prior art of record does "not limit the method to a certain number of retransmissions to prevent clogging."

**Examiner** disagrees as Applicants concedes, on page 19 2<sup>nd</sup> para., that 'repeat transmissions may be limited to a certain time interval.' See also **Gonno** at col. 13 lines 35-42.

Therefore, the **Examiner** maintains that the prior art of record renders unpatentable **Claim 19**.

- 1.2 In response to **Claims 22 and 24**, Applicants argue, on page 20 para. 1 et seq., that the prior art of record does not teach receiving means to limit repeat transmissions or appropriate means to identify missing messages.

**Examiner** disagrees as **Gonno** at col. 13 lines 22-33 clearly discloses such means.

### Claim Objections

- 2. In the Claims: Information in brackets has no patentable weight and 'operable' in Claim 19 shall be replaced with 'configured to operate.' Appropriate correction is required.

### Claim Rejections - 35 USC ' 102

**3.1 Claims 19-31** are rejected under 35 U.S.C. 102 (b) as being anticipated by GONNO (EP Patent No. 000876023; 4 NOV. 1998).

As per **Claims 19-31**, Gonno discloses an algorithmic means for providing frame re-transmission in a broadcast communication system, comprising: a receiver (col. 4 line 9 and col. 5 lines 9-10) for receiving a message indicative of a frame received in error by a wireless communication device, said message including an identification of said frame; a memory (col. 4 line 27; *(e.g., if an error is detected at the receiver, a NAK or repeat request is issued therefrom to the transmitter so that the frame marked as errored is to be retransmitted, said receiver/transmitter having storage means to hold/process such request.)*) for storing a predetermined number for determining when to re-transmit said frame; and a processor (col. 4 line 11) for determining a cumulative number of times that said frame was received in error and for ordering a re-transmission of said frame if said cumulative number of times is greater than said predetermined number *(e.g., if predetermined number is zero, there is no frame retransmission, otherwise, the frame is retransmitted).*

### Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**4.0 THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action

4.1 Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington, D.C. 20231

or faxed to: (703) 872-9306 for all formal communications.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Fourth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guy J. Lamarre, P.E., whose telephone number is (703) 305-0755. The examiner can normally be reached on Monday to Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert De Cady, can be reached on (703) 305-9595.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may also be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Guy J. Lamarre, P.E.  
Primary Examiner  
6/14/04

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